

USDS SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: <u>4-3-15</u>

April 3, 2015

By E-Mail / ECF

WILMERHALE

Robert J. Gunther, Jr.

+1 212 230 8830 (t)

+1 212 230 8888 (f)

robert.gunther@wilmerhale.com

Hon. Richard J. Sullivan  
 United States District Judge  
 United States District Court  
 Southern District of New York  
 500 Pearl Street, Room 615  
 New York, NY 10007-1312

MEMO ENDORSED

Re: *Roche Diagnostics GmbH et al. v. Enzo Biochem, Inc. et al No. 04 CV 4046 (RJS)*  
*(S.D.N.Y.)*

Dear Judge Sullivan:

This letter is submitted jointly on behalf of all parties in the above referenced matter—Roche Diagnostics GmbH, Roche Molecular Systems, Inc., Enzo Biochem, Inc., and Enzo Life Sciences, Inc.—to respectfully request a brief extension of the fact discovery deadline for the limited purpose of completing depositions related to the currently scheduled damages discovery.

Under the Court's March 4, 2015 Revised Scheduling Order, the parties are required to complete all damages fact discovery, including depositions, by April 13, 2015. (Dkt. No. 240, ¶ 2). Roche informed Enzo that, due to the witness' preexisting business schedules, the noticed individuals were first available for deposition the week following the currently scheduled fact discovery cutoff. Enzo objected to Roche's proposal that Enzo take three days of depositions in Indiana the week before the Markman hearing when the Court's March 4, 2015 Revised Scheduling Order provides the parties a week between the end of discovery and the hearing. Therefore, the parties jointly request a four week extension of the deadline to complete damages related fact depositions, and permit the parties an opportunity for limited follow-up discovery, such as the opportunity to supplement interrogatory responses or request documents based on information learned at deposition. The parties expect that all other document and written discovery will be completed by the current fact discovery deadline. This is the parties' first request for an extension in connection with the April 13, 2015 fact discovery deadline for damages discovery.

The parties will complete the above-outlined discovery while complying with the deadlines for the claim construction process provided for in the Court's Revised Scheduling Order, dated March 3, 2015 (Dkt. No. 240), so that the proposed extension will not have any impact on other scheduled dates. Accordingly, the parties jointly request that the Court grant their application for an extension of the fact discovery deadline to May 8, 2015.

SO ORDERED  
 Date: 4/3/15   
 RICHARD J. SULLIVAN  
 U.S.D.J.

Wilmer Cutler Pickering Hale and Dorr LLP, 7 World Trade Center, 250 Greenwich Street, New York, New York 10007  
 Beijing Berlin Boston Brussels Denver Frankfurt London Los Angeles New York Oxford Palo Alto Washington

WILMERHALE

Hon. Richard J. Sullivan  
April 3, 2015  
Page 2

Respectfully submitted,

By: /s/ Michael J. Dell  
Michael J. Dell  
KRAMER LEVIN  
NAFTALIS & FRANKEL LLP

*Attorneys for the Enzo parties*

By: /s/ Robert J. Gunther  
Robert J. Gunther  
WILMERHALE LLP

*Attorney for the Roche parties*

SUPERIOR  
Court  
RICHARD J. SULLIVAN  
d.s.s.